

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of Nathaniel JAMES ADAMSON-  
KINNEY, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHANNON ADAMSON,

Respondent-Appellant,

and

VICTOR KINNEY,

Respondent.

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In the Matter of NATHANIEL JAMES  
ADAMSON-KINNEY, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

VICTOR KINNEY,

Respondent-Appellant,

and

SHANNON ADAMSON,

Respondent.

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UNPUBLISHED

July 24, 2007

No. 274227

Ogemaw Circuit Court

Family Division

LC No. 05-012976-NA

No. 274314

Ogemaw Circuit Court

Family Division

LC No. 05-012976-NA

Before: Murphy, P.J., and Zahra and Servitto, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal from the court's order that terminated their parental rights to the minor child, Nathaniel James Adamson-Kinney, under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondents erroneously contend that the trial court erred when it found that the evidence supported statutory grounds to terminate their parental rights. In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993). "Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000); MCL 712A.19b(5). We review the trial court's determination for clear error. *Trejo, supra* at 356-357; MCR 3.977(J).

Before Nathaniel was removed in September 2005, respondent-mother, who had an intellectual impairment, demonstrated a lack of basic parenting skills, which placed Nathaniel, an infant, at a risk of harm. Specifically, she fed Nathaniel improper foods, did not follow instructions regarding safety and feeding issues, missed numerous doctor appointments, mishandled him, failed to keep him clean, and neglected medical issues. Nathaniel was also not progressing appropriately in respondent-mother's care as evidenced by his diagnosis of failure to thrive. The court assumed jurisdiction over Nathaniel in January 2006 because respondent-mother admitted she could not care for him. At the adjudicatory hearing, respondent-father also admitted that he failed to adequately intervene to protect Nathaniel and that he had a substance abuse issue. On February 1, 2006, the trial court entered the dispositional order that required respondents to comply with a treatment plan primarily focusing on improving their parenting skills.

The service providers testified that respondents' parental shortcomings remained problematic throughout the proceedings. During the case, service providers reported that respondent-mother became visibly frustrated with typical child behaviors while caring for Nathaniel, she handled him roughly, and demonstrated an ongoing inability to retain information pertinent to Nathaniel's care despite repeated instruction. Service providers opined that respondent-mother did not have the ability to parent Nathaniel and needed full-time support to assist her with parenting. Unfortunately, neither respondent-father nor Nathaniel's grandmother adequately compensated for respondent-mother's parenting deficiencies because they failed to provide her with the support or assistance necessary to enable her to properly and safely parent Nathaniel. Specifically, the evidence revealed that they failed to intervene when respondent-mother was having difficulty caring for Nathaniel or became frustrated with Nathaniel, they left her alone during parenting time, and did not recognize the significance of her parenting limitations and need for assistance. Further, respondent-father offered little assistance in caring for Nathaniel, he missed several visits with Nathaniel, participated "very little" and failed to demonstrate "hands on" parenting during the visits, was resistant to suggestions regarding proper childcare, and failed to recognize inappropriate care. Additionally, the evidence revealed that respondent-father failed to comply with his treatment plan and failed to address his alcohol abuse

issue in a timely manner. We further note that a psychological evaluation revealed that respondent-mother, because of her intellectual limitations, lacked the capacity to independently care for Nathaniel and her issues were not likely to improve with therapy, medication, or educational efforts. Respondent-father's evaluation showed that he would not likely be able to provide respondent-mother with the necessary support, and that the prognosis for them to be able to raise Nathaniel together appeared to be "quite poor."

In light of this evidence, the trial court correctly found that there is no reasonable expectation that respondents would be able to provide proper care and custody for Nathaniel, the condition that led to his adjudication, within a reasonable time. MCL 712A.19b(3)(c)(i) and (g). This is especially so considering Nathaniel's tender age and his special needs. Although there was some conflicting testimony concerning respondent-father's ability to parent Nathaniel, we must give regard to the special opportunity of the trial court to assess the credibility of the witnesses who appeared before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Additionally, respondent-mother's past neglect of the child, her ongoing lack of parenting skills due to her limited intellectual capacity, and respondent-father's inability to recognize when respondent-mother required assistance in caring for Nathaniel and to intervene and/or provide assistance when necessary clearly suggests that Nathaniel would be placed at a risk of harm if returned to their home. MCL 712A.19b(3)(j); *In re Jackson*, *supra* at 25. Accordingly, we find that termination of respondents' parental rights under MCL 712A.19b(3)(c)(i), (g), and (j) was appropriate.<sup>1</sup>

Respondent-father also claims that he was not adequately represented during the permanency planning hearing because the hearing commenced despite his counsel's motion to withdraw from representing him. We disagree. Nothing in the record suggests that his "counsel's performance fell below an objective standard of reasonableness" or that "the representation so prejudiced him as to deprive him of a fair trial." *People v Pickens*, 446 Mich 298, 338; 521 NW2d 797 (1994); *People v Sabin (On Second Remand)*, 242 Mich App 656, 658-659; 620 NW2d 19 (2000). Respondent-father could not have been prejudiced by his counsel's alleged failure to effectively cross-examine the caseworker at the permanency planning hearing considering the evidence before the court, including petitioner's exhibits, which revealed that he failed to consistently attend parenting times, left during the visits when respondent-mother was clearly frustrated with Nathaniel, was unwilling to accept the reasons why Nathaniel was removed, failed to demonstrate that he was a reliable and/or consistent support person for respondent-mother, and was uncooperative with requests for alcohol monitoring. These facts clearly supported the trial court's finding that Nathaniel would be placed a substantial risk of harm if returned to respondents' home. Contrary to respondent-father's argument, there is nothing in the record to indicate that the court would have reached a different result had the court

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<sup>1</sup> Respondent-mother contends on appeal that she should have been given the opportunity to demonstrate her ability to parent the child in a setting independent from her mother and respondent-father. Testimony indicated that respondent-mother was given the option during the proceedings to reside in an independent living setting, but she declined to do so. Regardless, testimony revealed that an alternative independent living situation was not available with the optimal level of services necessary to assist and supervise respondent-mother with parenting.

appointed a different lawyer to represent him at the permanency planning hearing or adjourned the hearing until it appointed different counsel. *Sabin, supra* at 658-659. Accordingly, reversal of the termination order is not warranted on the basis that respondent-father was not adequately represented at the permanency planning hearing.

Affirmed.

/s/ William B. Murphy

/s/ Brian K. Zahra

/s/ Deborah A. Servitto